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09/739,475	12/18/2000	Larry J. Eshelman	US000349***	4032

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EXAMINER
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MAHMOUDI, HASSAN

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/739,475	ESHELMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tony Mahmoudi	2165	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Remarks*

1. In response to the Appeal Brief filed on 09-August-2006, claim 2 is withdrawn per applicant's request. Claims 1 and 3-18 are presently pending in the application, of which claims 1, 6-7, 10, 14 and 17-18 are in independent form.
2. The Examiner has thoroughly reviewed the claims and the disclosure of the instant Application (specification, drawings, etc.), in preparation for submitting an Examiner's Answer to the Board of Appeals and Interferences, as requested by the Appellant in the Appeal Brief filed on 09-August-2006. As a result of the latest review, the Examiner has identified several issues with the drawings and the specification, as well as several issues with the claims, which are now rejected under the *second paragraph* of 35 U.S.C. 112 and under 35 U.S.C. 101. The Examiner's new findings are presented in this Non-Final Office Action in order to help place the claims of the instant Application in a better condition for Appeal. Some of the identified issues involve the previously allowed independent claim 7 and its dependent claims. Therefore, the prior indication of allowability of claims 7-9 and 11-13 is hereby withdrawn in this Office Action. The Examiner regrets any inconvenience caused by this decision.

***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:

Some reference characters have been used to designate multiple entities throughout the drawings. In one example, reference character “120” has been used to designate **HOUSEHOLD SERVER** and **OUTPUT DEVICE** (both in figure 1). In another example, reference character “140” has been used to designate **SERVER** and **INSTRUMENTS** (both in figure 1). The above are examples of multiple entities having been designated by the same reference character. The applicant is requested to review and correct all sheets of the drawings as appropriate.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include reference characters **not** mentioned in the description. For example:

Reference characters **103, 114, 170, and 190**, all in figure 1.

Reference characters **15, 37, 70, 80, 85, 90, and 94**, all in figure 2.

The above are examples of reference characters not mentioned in the descriptions. The applicant is requested to review and correct all sheets of drawings as appropriate.

5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the

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appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specifications***

6. The specification of the instant application is objected to in view of the objections made above to the drawings. The specification must correctly and sufficiently reference every element shown on the drawing figures. Wherever there is a discrepancy between an element depicted in the drawings and references made to the element in the specification (or lack thereof), either the figures of drawings, or the specifications, or both must be corrected to overcome the discrepancy. Appropriate corrections to the specifications are required.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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8. Claims 6-7, 10, and 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 7 each recite, "said record" in line 6. There is lack of antecedent basis for this limitation in the claim. The Examiner cannot clearly establish whether "said record" refers to "a diary record" (recited in lines 1-2), or it refers to "a new record in a calendar application" (recited in lines 3-4.) Applicant can overcome this rejection by amending the above claims to specify which record the recitation of "said record" refers to (e.g., "said diary record", or "said calendar application record".)

Claims 6 and 7 each recite, "the making of a new record" in line 3. There is lack of antecedent basis for this limitation in the claim. Applicant can overcome this rejection by amending the above claims to change "the making" to --making--.

Claims 6 and 7 each recite, "prompting the user *for greater detail* in an event defined by said record" in lines 5-6, which represents "intended use" but not necessarily required functionality. The Examiner cannot clearly establish whether the function of **the user providing** the "greater detail" is indeed a required element of the claim. Applicant can overcome this rejection by amending the above claims to recite "prompting the user to enter greater detail in an event defined by said record", followed by a step of "accepting the greater detail entered by the user", similar to such limitations recited in independent claims 1 and 10.

Claim 10 recites, "accepting data to form *a new record* in a diary; and "adding *a new record* responsive to a result of said step of accepting", which renders the claim indefinite.

The Examiner cannot clearly establish whether "a new record" being added in the step of "adding" is the same record formed in the step of "accepting", or it is another "new record" different from the record formed in the step of "accepting." The Applicant can overcome this rejection by amending claim 10 to clearly recite either "adding said new record responsive to a result.....", or "adding a second new record responsive to a result.....", as appropriate.

Claims 17 (in line 6) and claim 18 (in line 7) recite, "said user's environment". There is lack of antecedent basis for these limitations in the claims. Applicant can overcome this rejection by changing "said user's environment" to --environment of said user-- in the above claims.

#### ***Claim Rejections - 35 USC § 101***

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claims 6, and 7-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Independent claims 6, 7, and 10 (and their dependent claims, where applicable) produce results that are transparent to users and/or to other components of the claims, and therefore, are not considered tangible.

The result produced by claim 6 is stated as, “***automatically generating a diary record*** responsive to a result of said steps of accepting and prompting.” The “automatically generated diary record” is not stored anywhere in memory or a database and there is no indication of the results being outputted on a tangible medium (e.g., displayed to the user, printed, stored, etc.)

The results produced by independent claim 7 (and its dependents claims) are stated as, “***automatically generating a diary record*** responsive to a result of said steps of accepting and prompting”, wherein said step of automatically generating includes: “..... ***generating a detailed description*** of a portion of said data .....whereby additional data from said external data is used to ***clarify*** said data accepted in said step of accepting.” None of the results (the “automatically generated diary record”, the “generated detailed description”, or the “clarification of data”) are considered “tangible” because none of these results, or an indication of such results, are stored anywhere in memory or in a database and there is no indication in the claims of these results being outputted on a tangible medium (e.g., displayed to the user, printed, stored, etc.)



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The result produced by independent claims 6 and 7 are stated as, “automatically generating a diary record *responsive to a result of said steps of* accepting and *prompting*”. The above recited results are clearly dependent on results produced by the step of *prompting*. However, the step of *prompting* is recited in the “intended use” form and does not necessarily have a result (Applicant is directed to the remarks and discussions provided in paragraphs 7 and 8 of this Office Action for the rejection of the “intended use” recitation of “prompting” under the second paragraph of 35 U.S.C. 112.) Therefore, the end result of “*automatically generating a diary record*”, produced by claims 6 and 7 is dependent on result of step of *prompting*, which may or may not be produced.

The Applicant can overcome this rejection by amending the above claims to overcome the rejection made under the second paragraph of 35 U.S.C. 112, as suggested by the Examiner in paragraphs 7-8 of this Office Action.

The result produced by claim 10 is stated as, “*adding a new record* responsive to a result of said step of accepting.” There is no indication as to where the “new record” is “added” to, or if the “new record” is stored in memory, added to a database, or outputted on a tangible medium (e.g., displayed to a user, printed, etc.)

The Applicant can overcome this rejection by amending the claims to recite “tangible” results (e.g., similar to the results produced by independent claims 1, 14, 17, or 18, reciting, “*adding said record [or index or data, etc.] ..... to the diary database.*”)

Appropriate corrections are required.

*Claim Rejections - 35 USC § 103*

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 1, 3-4, 10, and 14-16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blandford (U.S. Patent No. 6,470,449) in view of Metcalf (U.S. Publication No. 2001/0027446 A1.)

As to claim 1, Blandford teaches a method of generating a diary record (see Abstract), comprising the steps of:

accepting user input responsive to the step of prompting (see column 4, lines 58-59, and see column 15, line 66 through column 16, line 1, also see figure 24);

adding a record to a database defining the historical record including at least one of data resulting from the step of classifying and data resulting from the step of accepting (see column 14, lines 30-42, and see column 15, lines 11-15.)

Blandford does not teach:

classifying at least one of audio, video, and text input to a computer and generating an indicator of an event responsively thereto; and the event being unrelated to a calendar/diary application; and

prompting a user, by a calendar/diary application, to enter data relating to the event for incorporation in a historical record of events pertaining to a user.

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Metcalfe teaches an electronic system for regulating activities (see Abstract), in which he teaches:

classifying at least one of audio, video, and text input to a computer and generating an indicator of an event responsively thereto; and the event being unrelated to a calendar/diary application (see figure 2 and see paragraphs 35 and 38-39); and

prompting a user, by a calendar/diary application, to enter data relating to the event for incorporation in a historical record of events pertaining to a user (see paragraph 39, 41 and 82.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford by the teaching of Metcalfe, because including classifying at least one of audio, video, and text input to a computer and generating an indicator of an event responsively thereto; and the event being unrelated to a calendar/diary application, would enable the system to incorporate multimedia entries to the user's records, and prompting a user, by a calendar/diary application, to enter data relating to the event for incorporation in a historical record of events pertaining to a user, would enable the user to enter information where the system would maintain the information in a user's historical log.

As to claim 3, Blandford as modified, teaches wherein the event includes writing an email letter (see Metcalfe, paragraphs 74 and 82.)

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As to claim 4, Blandford as modified, teaches wherein the event includes writing a letter on a text application other than the calendar/diary application (see Blandford, figures 1 and 8, and see column 11, lines 56, where “word processor” is taught, also see Metcalf, paragraphs 74 and 82.)

As to claim 10, Blandford teaches a method of generating a diary record (see Abstract), comprising the steps of:

detecting one of a passage of time since an entry of a record into a diary database and a time of day (see column 3, lines 8-11, see column 4, lines 17-20, and see column 6, lines 54-60);

accepting data to form a new record in a diary (see column 4, lines 58-59, and see column 15, line 66 through column 16, line 1, also see figure 24); and

adding a new record responsive to a result of the step of accepting (see column 14, lines 30-42, and see column 15, lines 11-15.)

Blandford does not teach prompting a user to enter a diary entry responsively to the step of detecting.

Metcalf prompting a user to enter a diary entry responsively to the step of detecting (see paragraph 39 and 41.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford by the teaching of Metcalf, because including prompting a user to enter a diary entry responsively to the step of detecting, would enable the user to enter information relating to the diary record relative to

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the time or times when the transaction is to be performed, as taught by Metcalfe (see paragraph 39.)

As to claim 14, Blandford teaches a method of generating a diary record (see Abstract), comprising the steps of:

extracting current events or historical data from an external data resource (see column 4, lines 65-67, and see column 14, lines 49-60);

adding data resulting from the step of extracting to data resulting from the step of accepting to the diary database (see column 14, lines 30-42, and see column 15, lines 11-15.)

Blandford does not teach accepting data descriptive of at least one of an appointment and an event for inclusion in a diary database.

Metcalfe teaches accepting data descriptive of at least one of an appointment and an event for inclusion in a diary database (see paragraphs 39-40 and 55.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford by the teaching of Metcalfe, because including accepting data descriptive of at least one of an appointment and an event for inclusion in a diary database, would enable the user to enter information relating to an event or an appointment, based on the actual time the event/appointment is to take place, as taught by Metcalfe (see paragraph 39.)

As to claim 15, Blandford as modified, teaches wherein the step of adding includes accepting user input data indicative of instructions to modify the current events or historical

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data (see Blandford, Abstract, and see column 4, lines 17-35, and see column 10, line 57 though column 11, line 18, also see Metcalf, paragraphs 57 and 82.)

As to claim 16, Blandford as modified, teaches wherein the step of adding includes correlating a date corresponding to the current events or historical data with a date diary data entered in the diary database (see Blandford, column 3, lines 8-11, see column 4, lines 17-20, and see column 6, lines 54-60.)

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blandford (U.S. Patent No. 6,470,449) in view of Metcalf (U.S. Publication No. 2001/0027446 A1), as applied to claims 1-4, 10, and 14-16 above, and further in view of Hayes-Roth (U.S. Publication No. 2002/0005865.)

As to claim 5, Blandford as modified does not teach wherein the event includes a change in a mood of the user.

Hayes-Roth teaches authoring contents for interactive agents (see Abstract), in which he teaches wherein the event includes a change in a mood of the user (see paragraphs 86 and 386, and see claim 23.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford as modified, by the teaching of Hayes-Roth, because having the event including a change in a mood of the user would enable the system to take into consideration the user's state-of mind (mood), and be able to target

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events, articles, items to for presenting to the user according to the user's present mood. An advanced use of the Mood System might be to model the user's mood based on the words they use and then customize the interaction based on what you perceive is the user's state of mind, as taught by Hayes-Roth (see paragraph 86.)

14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blandford (U.S. Patent No. 6,470,449) in view of Metcalf (U.S. Publication No. 2001/0027446 A1), and further in view of Berenson et al (U.S. Publication No. 2001/0049617.)

As to claim 6, Blandford teaches a method of generating a diary record (see Abstract), comprising the steps of:

accepting data towards the making of a new record in a calendar application (see column 4, lines 58-59, and see column 15, line 66 through column 16, line 1, also see figure 24); and generating a diary record responsive to a result of the steps of accepting and prompting (see column 14, lines 30-42, and see column 15, lines 11-15.)

Blandford does not teach prompting a user for greater detail in an event defined by the record other than a time of occurrence.

Metcalf teaches prompting a user for greater detail in an event defined by the record other than a time of occurrence (see paragraph 25, where "prompting the user for greater detail from the user other than the time of occurrence", is read on "prompting a user for and receiving from the user who/what information relating to the activity, why/how information relating to the activity, and where/when information relating to the activity", and see

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“secondary interfaces may prompt the user to correct or supplement information if information that is not in a proper format is input, or if one or more required fields are skipped”, and “user is prompted to indicate the subject, in the who/what field 201 of FIG. 2, of the activity, as indicated by block 315”, in paragraph 35.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford by the teaching of Metcalf, because including prompting a user for greater detail in an event defined by the record other than the time of occurrence, would enable the user to enter additional information relating to the diary record, such as “who/what information relating to the activity, why/how information relating to the activity”, in order to complete and/or gather historical information regarding a diary record, as taught by Metcalf (See paragraph 25.)

Blandford as modified, still does not teach automatically generating a diary record.

Berenson et al teaches a web-driven calendar updating system (see Abstract), in which he teaches automatically generating a diary record (see Abstract, and see paragraph 19.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford as modified, by the teaching of Berenson et al, because automatically generating a diary record would enable the system to use data/information entered by a user and generate and/or update an entry in the calendar/diary system based on the user provided information.



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15. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blandford (U.S. Patent No. 6,470,449) in view of Hayes-Roth (U.S. Publication No. 2002/0005865.)

As to claim 17, Blandford teaches a method of generating a diary record (see Abstract), comprising the steps of:

accepting user input data descriptive of personal events to be recorded in a diary database (see column 4, lines 58-59, and see column 15, line 66 through column 16, line 1, also see figure 24.)

Blandford does not teach:

sensing and classifying states, events, or moods of a user or the user's environment;

generating an index responsive to the step of sensing; and

adding the index and the user input to the diary database.

Hayes-Roth teaches authoring contents for interactive agents (see Abstract), in which he teaches:

sensing and classifying states, events, or moods of a user or the user's environment (see Abstract, and see paragraphs 39, 46-51, 84, 86, and 385.)

generating an index responsive to the step of sensing (see paragraph 65, and see figure 1);

adding the index and the user input to the diary database (see paragraph 389, and see figures 6-7.)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Blandford by the teachings of Hayes-Roth, because including sensing and classifying states, events, or moods of a user or the user's environment; generating an index responsive to the step of sensing; and adding the index and

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the user input to the diary database, would enable the system to incorporate indicators of the user's mood changes, as well as other event/state variables with the diary records, so that the agent can retrieve contents based on the values of the state variables and user mood/behavior, as taught by Hayes-Roth (see paragraph 389.)

As to claim 18, Blandford teaches a data medium having instructions thereon for implementing a method for generating a diary record (see column 17, line 66 through column 18, line 14, and see column 18, lines 41-64.)

For the remaining steps of this claim, applicant is directed to the remarks and discussions made in claim 17 above.

***Allowable Subject Matter***

16. Independent claim 7 of the instant Application contain subject matter which was previously indicated by the Examiner as "allowable." However, since at the present time the above independent claim (and its dependents) remain rejected under the second paragraph of 35 U.S.C. 112 and under 35 U.S.C. 101, the Examiner is deferring any decision for indication of allowability of the above claim(s) until after all rejections provided in this Office Action involving the above claim(s) are fully overcome by the Applicant.

Any amendments made to the claims to overcome the above rejections must be fully supported by the originally filed specification of the instant Application (ensuring enablement and avoiding introduction of "new matter"), and must not result in broadening the scope of the claims and/or or the invention as a whole.

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Introduction of any of “new matter” or “enablement” issues, or any broadening of the scope of the claimed invention will result in a new search and would require further consideration, including possible new grounds for rejection over the prior art (to be) identified as the result of the required search.

### ***Response to Arguments***

Applicant's arguments presented in the Appeal Brief filed on 09-August-2006, with respect to the rejected claims in view of the cited references have been fully considered. The Examiner maintains his previous (prior art) rejections under 35 U.S.C. 103(a) as indicated in the previous as well as in the present Office Actions, and does not acknowledge the Applicant's arguments to be persuasive. However, the Examiner is deferring his addressing of these arguments until after the new rejections made under 35 U.S.C. 112 and under 35 U.S.C. 101 presented in this Office Action are overcome, and the claims are placed in a better condition for Appeal, at which time the Examiner will address all outstanding arguments in his Examiner's Answer to be submitted to the Board of Appeals and Interferences, if the Applicant so desires.

### ***Conclusion***


17. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Tony Mahmoudi whose telephone number is (571) 272-4078. The examiner can normally be reached on Mondays-Fridays from 08:00 am to 04:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin, can be reached at (571) 272-4146.

tm

October 29, 2006

  
Tony Mahmoudi